

Serial No. 10/528,318
Atty. Doc. No. 2002P15665WOUS

REMARKS

Claims 13-20 stand rejected under 35 U.S.C. §112, first paragraph as reciting subject matter not described in the specification. Claims 13, 15-17, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US patent No. 5,691,707 (hereinafter Smith). Claims 14 and 18 stand newly rejected as being unpatentable under 35 USC §103(a) over Smith in view of US patent No. 4,479,389 (hereinafter Anderson). Reconsideration of the rejections and allowance of the pending claims are respectfully solicited in view of the foregoing amendments and the following remarks.

Claims 1-12 were previously canceled. Claims 21-28 have been withdrawn from consideration and are presently cancelled. Accordingly, claims 13-20 remain pending.

Independent claims 13 and 17 have been amended to address the issues noted in the Office Communication regarding 35 U.S.C. §112, first paragraph and 132(a). More specifically, the language identified by the Examiner as purportedly introducing new matter has been removed from the claims. Accordingly, this basis of rejection should be withdrawn. The amendment should be entered since this amendment complies with a requirement of form expressly set forth in the previous Office Action. Moreover, this amendment should be entered because it would place the claims in better form for consideration on appeal.

M.P.E.P. 2143.04 provides that to establish *prima facie* obviousness of a claimed invention, all the claims limitations must be taught or suggested by the prior art. All words in a claim must be considered for judging the patentability of the claim against the prior art. If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending there from is nonobvious.

Claim 13 is directed to an acousto-mechanical method for monitoring and carrying out a diagnosis of a technical installation. Accordingly, claim 13 recites a step for uniquely assigning an acoustical signal to a specific failure of a rotatable component of the technical installation. Claim 13 further recites mounting a vibratory device on the component, wherein the vibratory device is configured to generate the uniquely assigned acoustic signal in the event the specific failure of the component occurs.

Smith is directed to a device for monitoring bearing performance. More particularly, Smith describes a sensor that upon detection of vibration sends a signal to

Serial No. 10/528,318
Atty. Doc. No. 2002P15665WOUS

a receiver 37 (FIG. 2) for converting the signal into an audible or visual record of the vibration. See Smith, col. 2, lines 25-28. See also Smith, col. 5, lines 13-15 describing that it is particularly preferred that the vibration sensing means (and temperature sensing means) be adapted to constantly send a respective signal to its associated receiver. That is, Smith expressly teaches away from the presently claimed invention being that Smith's sensor expressly requires sending an electrical signal to a receiver and only when receiver 37 converts this signal can an audible record be made. This is fundamentally opposite to the claimed invention that recites structural and/or operational relationships regarding a vibratory device configured to generate the uniquely assigned acoustic signal and has nothing to do with sending an electrical signal to a receiver for conversion and generation of an audible record, as Smith requires. In view of the foregoing consideration, it is respectfully submitted that Smith fails to constitute an appropriate *prima facie* combination for rejecting claim 13 under 35 USC §103(a), and this rejection (as well as the rejection of claims depending from claim 13) should be withdrawn.

Claim 17 is directed to an acousto-mechanical apparatus for monitoring and carrying out a diagnosis for a power plant. Accordingly, claim 17 recites a vibratory device assigned to a component of the power plant for producing a uniquely assigned acoustical signal when a specific failure occurs in a rotatable component of the power plant. As noted above, Smith teaches away from a vibratory device assigned to a component of the power plant for producing a uniquely assigned acoustical signal. As expressly described by the Smith reference, Smith's vibration sensor must be connected to a receiver to convert the electrical signal from Smith's sensor in order to generate an audible record. Accordingly, Smith also fails to constitute an appropriate *prima facie* reference for rejecting claim 17 under 35 USC 103(a), and this rejection (as well as the rejection of claims depending from claim 17) should be withdrawn.

In connection with the rejection of claims 14 and 18, it is noted that Anderson fails to correct the fundamental deficiencies of Smith noted above. Accordingly, the Smith/Anderson combination fails to constitute an appropriate *prima facie* combination for rejecting claims 14 and 18 under 35 USC §103(a), and these rejections should be withdrawn.

Serial No. 10/528,318
Atty. Doc. No. 2002P15665WOUS

JUL 18 2007

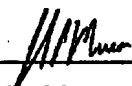
Conclusion:

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 7/18/07

By: 
John P. Musone
Registration No. 44,961
(407) 736-6449

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830